

MIAMIBEACH

AD HOC CHARTER REVIEW BOARD

Members:

Stephen Zack, Esq., Chair
Jonathan Beloff, Vice-Chair
Richard Alhadeff
Sherry Kaplan Roberts
Rick Kendle
Sarah Johnston
Vacant

Appointed by:

Mayor Philip Levine
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Michael Grieco
Commissioner Edward L. Tobin
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

Staff:

Jose Smith, City Attorney
Debora Turner, First Assistant City Attorney
Gary M. Held, First Assistant City Attorney
Donald Papy, Chief Deputy City Attorney
Rafael E. Granado, City Clerk
Liliam Hatfield, OAV, City Clerk's Office

Meeting Agenda

Monday, March 17, 2014 at 4:30 p.m.

City Manager's Large Conference Room, Fourth Floor, City Hall

Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Charter Review & Revision Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjourn the Charter Review & Revision Board meeting without reaching all agenda items.

1. **APPROVE THE MARCH 10, 2014 CRB MINUTES.**
2. **VOTER REFORM** – Proponent Member Kaplan Roberts. Guest Victor Diaz, Esq. to present
3. **LAND USE BOARDS – SIMPLE MAJORITY WHEN ONLY FIVE MEMBERS ARE PRESENT AND BOARD MEMBERS APPEARING BEFORE OTHER CITY BOARDS.** – Proponent Commissioner Joy Malakoff. Gary Held, First Assistant City Attorney to present proposed language.
4. **PROTECT U.S. COAST GUARD FROM ENCROACHMENTS** – Proponent Rick Kendle.
5. **TRAFFIC PLAN CONCERNS** – Proponent Chair Zack
6. **CASINO GAMBLING ON MIAMI BEACH** – “Gambling allowed on Miami Beach only if residents approve via Referendum.” Proponent Rick Kendle
7. **REVIEW REVISIONS TO CITIZEN’S BILL OF RIGHTS/DECLARATION OF RIGHT AS SUGGESTED BY PROPONENT RICHARD ALHADEFF** – *Clerk’s Note: Item Withdrawn by Mr. Alhadeff.*

8. ESTABLISH FUTURE MEETING DATES AND TIMES.

a. The following two meetings are currently set:

- Monday, March 24, 2014 – 4:00 p.m. to 7:00 p.m.
- Thursday, April 10, 2014 – 4:00 p.m. to 7:00 p.m.

**TIME PERMITTING, THE FOLLOWING ITEMS MAY BE DISCUSSED
OR ALTERNATIVELY, CARRIED OVER TO THE NEXT MEETING:**

- a. **INSPECTOR GENERAL WITH SUBPOENA POWER** – Discussion lead by Board member Kendle. (Invite Joe Jimenez, Assistant City Manager, and Alek Boksner, First Assistant City Attorney)
- b. **ADDITIONAL FUNCTIONS OF THE CRB – EXTENSION OF JURISDICTION/TIME**
- c. **MIAMI BEACH UNITED'S (MBU) FIVE PRINCIPLES FOR RESIDENT CHARTER RIGHTS AND COMPANION LEGISLATION** (Time Certain to be determined.)
- d. **SECTION 2.02 COMPENSATION – STIPEND AND TAX REPORTS FOR MAYOR AND COMMISSIONERS** (Invite fiancé Department)
- e. **SECTION 2.07 – VACANCIES IN THE CITY COMMISSION** – Item tabled at the 2/21/14 CRB meeting.

Timeframe:

- May 2, 2014 - Committee's final recommendation to the City Commission;
- Commission meeting no later than June 6, 2014 for passage of Resolution(s) calling for an August 26, 2014 Special Election; and
- Commission meeting no later than August 5, 2014 for passage of Resolution(s) calling for a November 4, 2014 Election.

ITEM 1

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MIAMI BEACH

AD HOC CHARTER REVIEW BOARD

Members:

Stephen Zack, Esq., Chair
Jonathan Beloff, Vice-Chair
Richard Alhadeff
Sherry Kaplan Roberts
Rick Kendle
Sarah Johnston
Richard "Rick" J. Preira

Appointed by:

Mayor Philip Levine
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Michael Grieco
Commissioner Edward L. Tobin
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

Resigned March 10, 2014

Staff:

Jose Smith, City Attorney
Debora Turner, First Assistant City Attorney
Gary M. Held, First Assistant City Attorney
Donald Papy, Chief Deputy City Attorney
Rafael E. Granado, City Clerk
Liliam Hatfield, OAV, City Clerk's Office

Meeting Minutes

Monday, March 10, 2014 at 4:30 p.m.
Commission Chambers, Third Floor, City Hall
Email: CharterReview@miamibeachfl.gov

Special Note: In order to ensure adequate consideration, if necessary, the members of the Ad Hoc Charter Review Board may move any agenda item to another meeting date. In addition, the members of the Charter Review & Revision Board may, at their discretion, adjourn the Charter Review & Revision Board meeting without reaching all agenda items.

Meeting called to order at 4:40 p.m. by Chair Zack.

Roll call taken. All Board members are present with the exception of Member Preira who resigned on March 10, 2014.

Announcement: Chair Zack announced that he received an email from Richard Preira, who stated that due to family and business matters was going to have to resign. Mr. Preira was informed by the City Clerk that this email was accepted as a letter of resignation. The Board thanked Mr. Preira for his service.

1. APPROVE THE FEBRUARY 21, 2014 CRB MINUTES.

ACTION: Motion made by Member Alhadeff to approve the minutes; seconded by Vice-Chair Beloff; Voice-vote: 6-0.

2. VOTER REFORM

ACTION: Member Kaplan has sent publications for distribution regarding voter reform. Ms. Kaplan has called Victor Diaz to speak at the March 17, 2014 CRB Meeting on the subject and to allow the public to be educated. **Item to be placed at the March 17, 2014 CRB Agenda. Invite Victor Diaz to speak on the item.**

Chair Zack explained that there was some confusion about the time of the meeting and he clarified that the meetings are 4:30 to 6:00 p.m. as advertised.

- a. Section 2.02 – *Term (Term Limits)* – Consider proposed amendment to clarify that at no time, under no circumstance, shall any individual serve more than 14 years total – a maximum of six (6) years as Mayor and a maximum of eight (8) years as a Commissioner. **Debora Turner to present.**

Ms. Turner distributed proposed charter text language on term limits, and provided a copy of the Miami-Dade County term limit provision, amended recently in 2012 pursuant to a ballot question in the County, for information. Ms. Turner explained that the provision she distributed clarifies that Commissioners could serve only for two-four year terms, and the term for Mayor would be for three-two year terms. The proposed provision also includes the following language: "If a member serves a partial term as Mayor or Commissioner in excess of 50% of the subject term of office, that partial term shall be considered a full term for purposes of the term limit provisions in this section."

ACTION: Chair Zack explained that this language clarifies the misinterpretation and it makes it clear. Motion made by Chair Zack to approve Section 2.02 (Term Limits); seconded by Vice-Chair Beloff; Voice-vote: 6-0.

3. **CASINO GAMBLING ON MIAMI BEACH** – Consider a proposed amendment to the Bill of Rights that allows gambling in Miami Beach, only if a certain percentage of voters approve it via Referendum.

ACTION: Chair Zack disclosed that he will not participate in this discussion as his firm represents Wynn Hotels. Item deferred for discussion.

Member Kendle asked if the City Commission had discussed gambling at the last Commission. Ms. Turner explained that the Commission reaffirmed their position against it. Discussion held. Member Kendle suggested deferring this item to the next meeting.

Commissioner Malakoff clarified that the City Commission confirmed the Resolution against casino gambling in the City, but did not direct the Charter Review to add to the agenda or make it part of the Charter. Chair Zack tabled the item to the next meeting. Approved by acclamation; 5-1; Opposed: Member Kaplan Roberts. **Item to be placed on the next agenda for discussion.**

4. **REVIEW REVISIONS TO CITIZENS' BILL OF RIGHTS/DECLARATION OF RIGHTS AS SUGGESTED BY PROPONENT R. ALHADEFF.**

ACTION: Discussion held regarding changes to the Bill of Rights. See Miami Beach United item discussion.

5. **TRAFFIC PLAN CONCERNS** – Proponent Chair Zack

ACTION: Not reached.

6. **PROTECT U.S. COAST GUARD FROM ENCROACHMENTS** – Proponent Rick Kendle.

ACTION: To place on the March 17, 2014 CRB Agenda.

7. ESTABLISH FUTURE MEETING DATES AND TIMES.

ACTION: The CRB will meet from 4:00 to 7:00 p.m. on March 24 and April 10, 2014.

8. LAND USE BOARDS – SIMPLE MAJORITY WHEN ONLY FIVE MEMBERS PRESENT OR APPOINTMENT OF ALTERNATES TO THE LAND USE BOARDS. Gary Held, First Assistant City Attorney to present.

ACTION: The Board unanimously agreed to take this item out of order as courtesy to Commissioner Malakoff and Gary Held in the audience.

Vice-Chair Beloff explained that at the next Planning Board meeting, there will be only 5 out of seven members, and when that happens many of the items require 5/7 vote and that would mean that the applicant would need unanimous vote and it is not fair to the applicant. Discussion held.

Commissioner Malakoff stated that they are trying to get land use boards filled with professionals, top architects, urban planners and landscape architects, but they have been unable to serve in previous years because there was legislation stating that there could be no recusals. If a top architect in Miami serves on another board, as soon as he/she has any project in Miami Beach, they are off the board. Part of the process in obtaining professionals also includes, not only the recusals, but the possibility of having an alternate on those boards, or if there are short boards (not all members are present), the ability to go instead of 5/7, with a simple majority.

Commissioner Malakoff suggested two options:

- 1) Have an alternate (another architect, urban planner or attorney) depending on category
- 2) Allow those boards to go with a simple majority when a full board is not present

Gary Held, First Assistant City Attorney, explained that conflicts only require a board member to permanently resign if the conflict is recurring such that it interferes with his or her serving on the board. Otherwise, the recusal is for the one item for which there is a conflict.

Discussion held regarding simple majority for land use boards. Member Kaplan Roberts is in favor of going with alternates.

Vice-Chair Beloff explained that it is a good idea but too cumbersome to do, and perhaps they could consider another formula. Discussion continued.

Gary Held explained that the way the boards are set up, is if an item goes to the City Commission, the Code reads that only four members are needed for a recommendation or vote. Appeals for Design Review Board go to the Commission (4/7); the Planning Board on recommendation for legislation needs 4/7; Board of Adjustment (5/7); Historic Preservation Board Certificate of Appropriateness 5/7, and the Planning Board on conditional use permits 5/7. The Board of Adjustment is the only one in the Charter; the rest are by ordinance. The Commission by ordinance could implement this with respect to the other boards. The Board of Adjustment (Related Special Acts) would need a

referendum to amend this. He agrees with Vice-Chair Beloff that having an alternate in the wings does not make sense. There are variations on how to deal with this, and he suggested have a simple majority with a 4/7 instead of 5/7, when only five board members are present.

Discussion continued regarding conflict.

Mr. Held explained that for the most part, recusals are in order only if there is a relationship by the architect with the presenter that is a business relationship, or that the application is on the architect's project or a family member is involved; it is from the Commission on Ethics regarding special private gain or loss with respect to family member or business associate.

Discussion continued regarding recusals, reducing the number of conflicts and reducing number of absences.

Member Johnston explained that it is her understanding that the Code of Ethics has a provision that one is unable to recuse himself/herself from a project if they sit on that board. The board member is obligated to remove himself from the board. Ms. Johnston will forward this legal opinion. **TO DO: Rafael E. Granado will distribute the legal opinion upon receipt from Ms. Johnston.**

Discussion continued.

MOTION 1:

Motion made by Member Kaplan Roberts to recommend language for Charter Amendment Referendum allowing a 4/7 majority vote if there are five members of the board present where a 5/7 vote is required; seconded by Vice-Chair Beloff; Voice-vote: 6-0.

MOTION 2: WITHDRAWN

Motion made by Member Kaplan Roberts to allow three recusals for a one-year period; seconded by Member Johnston; Voice-vote: 5-1: Opposed; Vice-Chair Beloff. Discussion continued regarding recusals and Member Kaplan withdrew her motion with the agreement of Member Johnston. **Motion Withdrawn.**

MOTION 3:

Motion made by Member Kaplan Roberts to reduce absences to three for a one-year period; seconded by Vice-Chair Beloff; Voice-vote: 6-0.

Discussion continued.

MOTION 4:

Motion made by Member Kaplan Roberts to allow a board member to appear in front of other boards representing a third party; seconded by Vice-Chair Beloff; Voice-vote: 6-0.

Chair Zack suggested drafting the language in the affirmative. It is the position of the CRB that a person serving on a board shall only be prohibited from appearing in front of that board and not be restricted from appearing in front of other boards. Discussion continued. **City Attorney's Office to draft language and bring language back at the next CRB meeting.**

9. MIAMI BEACH UNITED'S (MBU) FIVE PRINCIPLES FOR RESIDENT CHARTER RIGHTS AND COMPANION LEGISLATION

ACTION: Item discussed in conjunction with Item 4

Nancy Liebman explained that their discussion is appropriate to be included in Member Alhadeff's discussion with the Bill of Rights/Declaration of Rights. She gave background information on the work that has been done up until now. They asked to work with Member Alhadeff to include their proposal and incorporate into the revised Bill of Rights/Declaration of Rights.

Discussion held.

Chair Zack explained that he continues to find MBU's prior proposal ambiguous, and what is being presented it is still ambiguous, it is a "lawyer's relief act." He read MBU's new proposal and suggested that they make the language clear.

Member Kaplan Roberts stated that the language is redundant in terms of neighborhood associations and residents. She thinks the new proposal is a synopsis of what they want included in the Charter at some level, and she is asking the CRB to incorporate into the Charter, or at least the idea behind it. Discussion continued.

Ms. Liebman asked for authorization from the CRB to work with Member Alhadeff to include their proposal. Chair Zack clarified that the board does not authorize their meeting. He also stated that this issue would require an entire meeting. As a matter of principle, the Bill of Rights is something that should rarely be changed. They will read the document and bring feedback at future meetings.

Member Kendle suggested having very specific language for MBU into the Charter, but he doubts that they can change the entire Bill of Rights.

Mark Needle, MBU participant and board member, explained the process MBU has had with the Administration and City Attorney's Office.

Discussion continued regarding definition of homeowner association and vagueness of language. Chair Zack stated that they are there to help with anything, but he needs extreme specificity; aspirations are great but they do not translate into meaningful legislation.

Discussion held regarding the right to be heard. Member Kaplan Roberts asked if they would remove the word "association." Chair Zack stated that there would be a full discussion.

Gary Held, First Assistant City Attorney, stated that it was his understanding that the original draft was more specific to the Code than the Bill of Rights, and they are trying to change that to be more aspirational, and not with the great degree of technical specificity.

Mr. Needle asked for an opportunity to discuss further. Chair Zack does not understand the difference why an association needs rights other than the rights conferred to other citizens; if that can be explained to fix that, they can start there. Member Alhadeff agreed that the association should not have any rights.

Discussion continued regarding association rights as a principle.

Member Johnston stated that this item is broad, and the Board may not be able to accomplish or obtain a solution. She suggested selecting issues by subject to discuss as some of the items are not appropriate in the Bill of Rights, like neighborhood associations. This may be more effective if they tackle by subject.

Discussion continued.

Dr. Morris Sunshine spoke regarding expert reports not being available from the Planning Department and some Commission Committees to residents on a timely basis.

Chair Zack suggested him to come back and discuss at a meeting where this issue will be discussed at length. The right to reasonable notice is a right that all citizens have, not just for neighborhood associations. Mark Needle agreed to remove the neighborhood associations.

Gary Held, First Assistant City Attorney, informed that this problem from the Planning and other committees will be solved soon as the City is investing in a more technologically advanced system.

Meeting adjourned at 6:03 p.m. Chair Zack suggested holding longer meetings, from 4:00 to 7:00 p.m., in order to discuss issues at length. This was unanimously approved.

Ms. Turner stated, on behalf of the City Clerk, that there is an issue of staff receiving overtime paid and that is a budgetary concern.

Chair Zack stated that they want to meet from 4 to 7 pm, and if there is a problem, and if there is an overtime issue with that, they need the Board. The CRB members are spending more time and getting no compensation, but the work needs to be done in a short amount of time and the board will most probably not be extended.

**Time permitting, the following items may be discussed
or carried over to the next meeting:**

- a. **Inspector General With Subpoena Power** – Discussion led by CRB Member Kendle. (Invite Joe Jimenez, Assistant City Manager, and Alek Boksner, First Assistant City Attorney) – Item deferred at the 2/21/14 CRB Meeting; Item not reached on 3/10/14.
- b. **Section 2.07 – Vacancies In The City Commission** – Item tabled at the 2/21/14 CRB meeting. Item not reached on 3/10/14.
- c. **Section 2.02 – Compensation** – Stipend and tax reporting for Mayor and Commissioners. Item not reached on 3/10/14.

Handouts or Reference Materials:

1. Copy of Mr. Preira's resignation e-mail.
2. Miami Beach United's Principle Amendments to the Miami Beach City Charter
3. Term Limits – Proposed Charter Text, Section 2.02 Term and Compensation
4. Section 3.01. Election and Commencement of Terms of County Commissioners

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Granado, Rafael

From: Richard J. Preira <RPreira@smgqlaw.com>
Sent: Monday, March 10, 2014 3:54 PM
To: Granado, Rafael; Steve Zack
Cc: Held, Gary; Granado, Rafael; Hatfield, Liliam; City Clerk's Office
Subject: RE: Agenda for the next Ad Hoc Charter Review Board Meeting

Importance: High

Dear Messrs. Granado and Zack:

I regret that unexpected commitments are impacting my service with the Charter Review Board. I would like to resign from the Board. Please let me know if this decision will impede the progress of the Board. If not, Please let me know the appropriate protocol.

I will not be able to attend the meeting this afternoon.

Best,
Rick Preira

RICHARD J. PREIRA
Managing Partner – Family Law Practice Group



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RPreira@SMGQLaw.com | SMGQLAW.com | [Attorney Bio](#)

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March 5, 2014

**Miami Beach United's Core Principle Amendments to the
Miami Beach City Charter**

1. Residents, and the neighborhood associations that represent them, have sufficient information and opportunity to protect and improve their community's quality of life
2. Information before public boards and provided to residents and neighborhood associations be accurate, complete and accessible in a timely manner via the City's Website so that all parties are apprised of future development or zoning impacts in their community
3. The role of neighborhood associations should be recognized in the City charter and further enforced by City laws
4. The ideals of a fully transparent government and fundamental procedural fairness be enshrined in the City's charter and reinforced by City laws
5. Remedies for violation of the City charter should allow for non-judicial review as an alternative to legal action

TERM LIMITS

PROPOSED CHARTER TEXT

Section 2.02 Term and Compensation.

The term of office of the Mayor shall be two (2) years. The term of office of the City Commissioners shall be four (4) years.

Commencing with the General Election in November 1997 2015 (~~excluding individuals holding City of Miami Beach elective office prior thereto for their unexpired terms~~), the term limit for Miami Beach Commissioners shall be two four-year terms ~~eight consecutive years~~ and the term limit for Miami Beach Mayor shall be three two-year terms ~~six consecutive years~~ respectively, measured retroactively from their first elections and said terms shall not including time served as a member of the City of Miami Beach Commission as a result of having filled a vacancy in the Commission pursuant to Section 2.07 of the City of Miami Beach Charter. If a member serves a partial term as Mayor or Commissioner in excess of 50% of the subject term of office, that partial term shall be considered a full term for purposes of the term limit provisions in this section.

The annual compensation for the Office of Commissioner shall be six thousand dollars (\$6,000.00) and the compensation for the Office of Mayor shall be ten thousand dollars (\$10,000.00); any increase in salary for Mayor and/or Commissioner shall require approval of a majority of the electorate voting at a City election.

SECTION 3.01. ELECTION AND COMMENCEMENT OF TERMS OF COUNTY COMMISSIONERS.

- A. The election of the Commissioners from even-numbered districts shall be held in 1994 and every four years thereafter and the election of Commissioners from odd-numbered districts shall be held in 1996 and every four years thereafter at the time of the state primary elections.
- B. A candidate must receive a majority of the votes cast to be elected. Effective with the election for County Commission in 2004, if no candidate receives a majority of the votes cast there will be a runoff election at the time of the general election following the state primary election between the two candidates receiving the highest number of votes. Should a tie result, the outcome shall be determined by lot.
- C. Except as otherwise provided in this Charter, beginning with the elections in 2004, the terms of office of the Mayor and County Commissioners shall commence on the second Tuesday next succeeding the date of the general election in November.
- D. Notwithstanding any other provision of this Charter, effective with the term of Mayor scheduled to commence in October, 1996, no person shall be elected as Mayor for more than two consecutive four-year terms. Neither service as Mayor or County Commissioner prior to the terms scheduled to commence in October, 1996, nor service of a partial term subsequent to October, 1996, shall be considered in applying the term limitation provisions of this section.
- E. Notwithstanding any other provision of this Charter, effective with the term of Commissioners scheduled to commence in 2012, no person shall be elected as Commissioner for more than two consecutive four-year terms. No term of service as a Commissioner commencing prior to 2012 shall be considered a part of or counted toward the two term limit.

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ITEM 2

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Item 2

VOTER REFORM

**A Commission
That Resembles Its Citizens**

Fort Myers News-Press, 21 March 1998

Andrew Reding **Guest Opinion**

A commission that resembles its citizens

Frustration is running high on Lee County's barrier islands, the "Lee Island Coast". Collectively, Boca Grande, Captiva, Upper Captiva, Pine Island, Sanibel, Fort Myers Beach, and Bonita Beach pay something like a third of all Lee County taxes. Yet we have no representation we can truly call our own on the County Commission. In a recent survey conducted by the Committee of the Islands on Sanibel and Captiva, dissatisfaction with our nominal representative hit a staggering 98%. That has led to calls for creation of a barrier island county.

There is, of course, no chance the state legislature would approve the creation of a new county. It wouldn't even be a good idea, as it would require the creation of a whole new bureaucracy—new county commission, new sheriff, new school board, new mosquito control district—to serve a string of islands geographically isolated from each other. What's more, we are all neighbors, islanders and mainlanders alike, so that we should be aiming to work together for a better future, not pretending we can split apart.

Yet the frustration felt by our island citizens points to the need for a more inclusive county commission. As John Adams put it, a legislature "should be an exact portrait, in miniature, of the people at large."

Where is representation?

Whatever one thinks of the current Lee County commission, it is anything but a "portrait, in miniature" of the people of this county. There is not one woman on the Commission. There is no African-American or Latino. There is not one Democrat though a third of the voters are Democrats. The last barrier islander to serve was Sanibel's Porter Goss, and he got on through appointment, not election.

In an editorial, the *News-Press* suggested the possibility of increasing the number of commissioners from 5 to 7, as allowed by state law. There is certainly merit in the idea, given the county's rapid growth in population. Yet unless we were to change the method by which we elect commissioners, the only difference is that we would likely end up with seven white Republican men in business suits instead of five white Republican men in business suits. We would be no nearer to a truly diverse, representative commission.

The problem lies in the method of election. Though commissioners must live in their respective districts, they are elected by countywide majorities. With no room for minority representation, it is no wonder there is so little diversity, whether geographic, ethnic, or political.

Two remedies

There are two possible remedies. One would be to elect by district. That could conceivably offer some improvement, though not with current district boundaries, which make little political sense. Sanibel and Captiva, for instance, are bundled with Cape Coral, which is a much larger community, with differing needs and interests. To remedy this problem, we could increase the number of commissioners to seven, and create a barrier island district.

But districting has its own problems. Though it improves geographic representation, it does little to afford representation to minorities, be they ethnic or political. What's more, the power to redistrict is almost invariably abused to create safe seats for incumbents. That restricts competition, and thus democracy.

There is another option, which does not suffer from any of these defects. It is known as choice or preference voting. Under this option, and assuming an increase to seven commissioners, all seven would continue to be elected at-large, as they are now. But they would be elected all at once, and citizens would vote for up to seven candidates, ranking them in order of preference. Any candidate winning one-seventh of the first-choice votes would be elected. The candidate receiving the least first-choice votes would be disqualified, and the corresponding second-choice votes would be redistributed among the remaining candidates, and the process repeated until seven candidates are elected.

That would afford representation to any community of interest that could win one-seventh of the vote. The barrier islands could surely win a seat on the commission in that way; so could African-Americans or Latinos. Women could win at least a couple. So could Democrats.

Without safe districts, there would be no safe seats. There would be no wasted votes, since those whose first choices were disqualified would have their second and third choices influence the outcome. Wherever this method has been used, it has led to increased voter turnout and a legislature that more closely resembles the people it is supposed to represent.

We could have the same in Lee County, bringing us together to build a future we can all be proud of.

Andrew Reding, a registered Republican, was elected to a four-year term on the Sanibel City Council in 1996



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Item 2

VOTER REFORM

Instant Runoff Voting (IRV)

INSTANT RUNOFF VOTING (IRV)

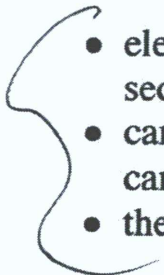
A Fairer Way to Conduct Single-Winner Elections

Most U.S. elections are held under plurality voting rules in which the candidate with the most votes wins. If three or more candidates run in the race, then the winner can have less than a majority of the vote. But the question always arises: was that winning candidate really preferred by most voters?

Instant Runoff Voting (IRV) is a sensible reform for elections where one person wins. Examples include elections for governors, mayors, legislatures using single-seat districts, and US president (for allocation of Electoral College electors). Instant Runoff Voting is better than plurality elections because:

- it ensures the election of the candidate preferred by most voters
- it eliminates the problem of spoiler candidates knocking off major candidates
- it frees communities of voters from splitting their vote among their own candidates
- it promotes coalition-building and more positive campaigning

IRV is also better than "two-round" runoff or primary elections, which often result in a change in voter turnout between the two rounds. IRV finishes the job with one election, which means that

- 
- election officials and taxpayers don't have to foot the bill for a second election
 - candidates don't have to raise money for two races, providing some campaign finance reform
 - the decisive election occurs when voter turnout is highest

How IRV Works: Each voter has one vote, and ranks candidates in order of choice (1, 2, 3, etc.). The counting of ballots simulates a series of run-

off elections. All first choices are counted, and if no candidate wins a majority of first choices, then the last place candidate (candidate with the least first-choices) is eliminated. Ballots of voters who ranked the eliminated candidate first then are redistributed to their next-choice candidates, as indicated on each voter's ballot. Last place candidates are successively eliminated and ballots are redistributed to next choices until one candidate remains or a candidate gains over 50% of votes.

Voters have the option to rank as many or as few candidates as they wish—their favorite candidate first, their next favorite second and so on. Voters have every incentive to vote for their favorite candidate rather than the "lesser of two evils" because their ballot can still count toward a winner if their first choice loses. There also is every reason for a voter to rank as many candidates as they want, since a voter's lower choice will never help defeat one of their higher choices.

IRV is used to elect the parliament in Australia and the presidents of the Republic of Ireland and the American Political Science Association. A related method is used in Cambridge (MA) for city council.

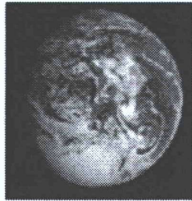
Example: In both 1992 and 1996, Bill Clinton was elected president with less than 50% of the popular vote. IRV could have been used to elect a majority-winner. Here's how it could have worked.

The 1992 Presidential Election—a Simulation			
Candidate	First Choice %	Ballots redistributed to 2nd choices	Final Tally
George Bush	38%	+10%	= 48%
Bill Clinton	43%	+9%	= 52%
Ross Perot	19%	- 19%	X

Assume that of the 19 percent of voters who ranked Ross Perot first, slightly more than half (e.g. 10% of all voters) ranked George Bush second on their ballots, and slightly less than half (e.g. 9% of all voters) ranked Bill Clinton second. When Ross Perot is eliminated, those votes are redistributed. Bill Clinton ends up with 52 percent of the overall vote, a clear majority, and is declared the winner.

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VOTER REFORM

**Proportional Voting (STV)
In Cambridge, Massachusetts**

Proportional Voting (STV) in Cambridge, Massachusetts

- [Plan E](#)
 - [Proportional Representation](#)
 - [Instructions to the voter](#)
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-

Plan E

On 1 June 1938, Massachusetts Governor Charles F. Hurley signed a bill adding a fifth city charter form (Plan E) to the four plans already available. Modeled after a successful Cincinnati charter, Plan E provides for a city manager form of government with proportional representation (PR) elections. Once the bill became law, the Cambridge Committee for Plan E obtained the necessary signatures to put the question on the Cambridge ballot in November 1938.

Plan E advocates said it would mean that a trained administrator and not a politician would run the city. Of PR voting, they said it would guarantee majority rule and at the same time give minorities representation in proportion to their actual strength. Opponents said PR would excite group prejudices and make voting a lottery. They also said the plan would be too expensive and would give too much power to the City Council. Plan E was defeated by 1,767 votes.

Two years later, Plan E was adopted by 7,552 votes, with a winning margin in eight of eleven wards. The first PR election was held in 1941, and the first Plan E government took office in January 1942. Since then, there have been five referenda—in 1952, 1953, 1957, 1961, and 1965—on whether to repeal or retain proportional representation. On each occasion, voters chose to retain it.

As a result, Cambridge has a City Manager form of government with nine Councillors and six School Committee members elected at large by Proportional Representation (PR) for a two year term. After members of the Council take the oath of office in January, they elect one of the nine to serve as Mayor. The Council appoints the City Manager, City Clerk, and City Auditor. The City Manager is the chief administrative officer of the city carrying out policies of the City Council for an indefinite term. The Mayor is the official head of the city for all ceremonial purposes, the presiding officer of the Council when it is in session, and the chairperson of the School Committee.

Proportional Representation

Proportional Representation (PR) is the method by which voters under Plan E elect members of the City Council and School Committee. It ensures minority representation with majority control. Any group of voters that numbers more than one-tenth of the total population can be sure of electing at least one member of a nine-member Council, but a majority group of voters can be sure of electing a majority of the Council.

Proportional Representation requires that the candidates' names be rotated in alphabetical order on the ballot so that each candidate appears in the desirable top-of-the-ballot position on an equal number ballots.

Instructions to the voter

In a PR election you may vote for as many of the candidates listed on the ballot as you wish. You must, however, indicate the order of your preference among the various candidates for whom you vote.

Mark your preferences with numbers only. Put the number "1" next to the name of the candidate who is your first choice. Put the numbers "2", "3", "4", etc. next to the names of other candidates in the order of your preference to indicate your second, third, fourth, etc. choices.

Be careful not to put the same number next to more than one candidate's name as this invalidates the votes cast for those candidates. Your other choices will be counted, however, if they are ranked by preference.

If you mark an X or put a check mark next to all candidates' names, your entire ballot becomes invalid and cannot be counted.

How the PR quota system works

Proportional representation or PR is the form of voting used by Cambridge under the Plan E form of government. Under PR a candidate needs to win a certain proportion of the the votes to be elected. This winning fraction of the votes is referred to as the "quota".

The quota is determined by dividing the total number of valid ballots cast by the number of positions to be elected plus one and then adding one to the resulting dividend.

Thus, to elect 9 City Councillors, the total number of valid ballots cast is divided by 10; to elect 6 School Committee members, the total is divided by seven. And in both cases 1 is added to the result of the division.

For example, if 25,000 valid ballots are cast for City Councillors, the quota will be 2,501 (25,000 divided by ten, plus 1).

How the ballots are counted

The count begins with the sorting of ballots by the first preference shown. This is known as the "First Count."

Any candidates who reach the necessary quota with Number 1 votes are declared elected. Any extra ballots they receive beyond the quota, referred to as the "surplus," are redistributed to the candidates marked next in preference on those surplus ballots according to the "Cincinatti Method."

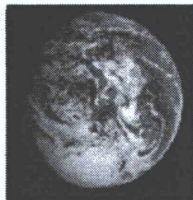
After the surplus is redistributed, the count continues with the elimination of those candidates who received fewer than fifty votes in the first count. Their ballots are redistributed to the remaining unelected candidates according to the next preference marked.

After each distribution, the candidate now having the lowest number of votes is eliminated and his/her ballots are redistributed to the next

indicated preference among the remaining unelected candidates.

As candidates “reach quota” through the addition of redistributed ballots to their totals, they are declared elected and no further ballots are transferred to them.

This process continues until all candidates have been eliminated except the nine winners.



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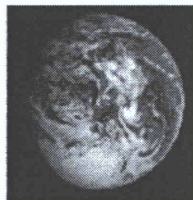
VOTER REFORM

Types of Electoral Systems

Types of Electoral Systems

electoral system	districts	type	description
first-past-the-post (FPTP)	single-member	plurality	The candidate that obtains more votes than any other is elected, even if that person only won a minority of votes cast
two-round system (TRS)	single-member	majority	A runoff election is held between the two top vote-getters, in order to ensure that the winner obtains a majority of votes cast
alternative vote (AV), or instant runoff	single-member	majority	Voters indicate an order of preference among candidates. If no candidate obtains a majority outright, the last-place candidate is removed, and the associated second-choice votes are added to the totals of the remaining candidates. The process is repeated until a candidate secures a majority.
block vote (BV)	multiple-member	plurality	Voters may cast as many votes as there are open seats. If there are n seats to be filled, the top n vote-getters are elected
single non-transferable vote (SNTV)	multiple-member	semi-proportional	Voters can only cast a single vote among candidates for n seats. The top n vote-getters are elected.
single transferable vote (STV), also known as preference or choice voting	multiple-member	proportional	Voters indicate an order of preference among candidates. Candidates whose first-choice vote totals attain the Hare Quota— $(\text{votes cast}/n+1) + 1$ — are elected. The last-place candidate is removed, and the associated second-choice votes are added to the totals of the remaining candidates. The process is repeated until all n seats are filled.
			The legislature consists of a block of seats that are elected by plurality or majority from single-member districts,

mixed member proportional (MMP)	mixed	proportional	and another block of seats that are elected in multi-member districts under a proportional system. The proportional seats are awarded in such a way as to compensate for disproportional effects in the single-member district outcomes.
parallel	mixed	semi-proportional	The legislature consists of a block of seats that are elected by plurality or majority from single-member districts, and another block of seats that are elected in multi-member districts under a proportional system. The proportional seats are awarded independently of the outcomes in single-member districts.
party list	multiple-member	proportional	Voters choose from among party lists, and seats are awarded in proportion to the vote received by each party. Candidates are seated in the order listed.



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VOTER REFORM

What is Proportional Representation?

What Is Proportional Representation?

Proportional representation (PR) voting systems are **used by most of the world's major democracies**. Under PR, representatives are elected from multi-seat districts in proportion to the number of votes received. PR assures that political parties or candidates will have the percent of legislative seats that reflects their public support. A party or candidate need not come in first to win seats.

In contrast, in the United States we use “winner-take-all” single seat districts, where votes going to a losing candidate are wasted, even if that candidate garners 49.9% of the vote. This leaves significant blocs of voters unrepresented. Voters sense this, and so often we do not vote for a candidate we like, but rather the one who realistically stands the best chance of winning—the “lesser of two evils.” Or, all too often, we don’t bother to vote at all.


No wonder that, among the 21 democracies in Western Europe and North America, the United States is next to last in voter turn-out, with only 36% participating in the 1994 Congressional elections.

What Are The Advantages Of PR?

Greater voter turn-out (typically 70-90%) because there are more choices for voters—third, fourth, fifth parties and more from diverse perspectives including more women and minorities elected:

- 41% women in Sweden
- 39% in Finland
- 36% in Norway
- only 11% in the U.S.

This leads to:

- 
- more diverse representation
 - cleaner campaigns run on the issues, not mud-slinging

- reduced effects of big money

Where In The World Is PR Used?

Some form of PR is used by most of the world's major democracies, including:

- Germany
- Sweden
- Switzerland
- Belgium
- Denmark
- Holland
- Greece
- Spain
- Austria
- Australia
- Mexico
- Portugal
- Japan
- Russia
- Italy
- Ireland
- Israel
- Poland
- Hungary
- New Zealand
- Iceland
- Brazil
- Nicaragua
- Norway
- Finland
- Venezuela
- and more...*

“Winner-take-all” is still used in France, Great Britain, and a few of Britain's former colonies that inherited it: the United States, Canada, and

India.

In April 1994 South Africa became the latest nation to switch to PR. In 1993 New Zealand, Japan, Russia and Mexico adopted a form of PR. Significantly, only a few of the former Soviet Bloc countries, including Russia, have chosen to model their emerging democracies after the "winner-take-all" model. Almost all have adopted some form of PR because they recognize the obvious: PR is a fairer, more flexible, more modern electoral system than the antiquated eighteenth century "winner-take-all" method.

Is PR The Same As A Parliamentary System?

No, it isn't. A parliamentary system is a type of governmental system, while PR is a type of voting/electoral system. One is about the structure of government, the other about how votes are counted. Many, but not all, of the countries using PR combine it with a parliamentary governmental system. But this does not have to be the case, and a PR electoral system could successfully be combined with the U.S. presidential system.

Has PR Been Tried In The U.S.?

Various forms of PR are used today to elect the city councils of Cambridge MA, Peoria IL, Alamogordo NM, various cities and counties in Alabama and Texas, the community school boards in New York City, the Democratic presidential primaries, various corporate boards, and the finalists for the Academy Awards.

The *preference voting* form of PR was first tried in the U.S. **earlier this century.** PR was first tried in the U.S. in the 1920's and worked very well in 24 cities like New York City, Boulder, Cincinnati, Cleveland, and Cambridge, MA. Both the majority and various political and racial minorities gained representation where their voices had previously been unheard. Although only two of the first 26 attempts to repeal preference voting were successful in cities around the country, formerly dominant political forces outlasted reformers and were successful in repealing PR nearly everywhere. Their general tactic was targetting unpopular minorities like blacks and leftists.

So How Does PR Work?

There are many different types of PR, because it is a flexible system that may be adapted to the situation of any city, state or nation. Here are a few of the most common:

- **List System**—by far the most widely used form of PR. The voter selects one party and its slate of candidates to represent them. Party slates can be either “closed” or “open,” allowing voters to indicate a preference for individual candidates. If a party receives 30% of the vote, they receive 30% of the seats in the legislature, 10% of the vote receives 10% of the seats, and so on. A minimum share of the votes can be required to earn representation; typically a 5% threshold is used. This type of PR is ideal for large legislatures on state and national levels.
- **Mixed Member System (MM)**—This PR hybrid elects half the legislature from single-seat, “winner-take-all” districts and the other half by the List System. Mixed-member smoothly combines geographic, ideological and proportional representation.
- **Preference Voting (PV)**—the voter simply ranks candidates in an order of preference (1,2,3,4, etc...). Once a voter’s first choice is elected or eliminated, excess votes are “transferred” to subsequent preferences until all positions are filled. Voters can vote for their favorite candidate(s), knowing that if that candidate doesn’t receive enough votes their vote will “transfer” to their next preference. With preference voting, every vote counts and very few votes are wasted. Preference voting is ideal for non-partisan elections like city councils. This method is also called “Single Transferrable Vote” or “STV”.

What About The President? We Can’t Divide Up The Presidency, Can We?

No, we can’t. However, there are much better ways for electing officials such as president, mayor, or governor than what we use today:

- **Majority preference voting (MPV)**—related to preference voting. Like preference voting, the voter simply ranks candidates in an order

of preference (ex. 1. Perot 2. Clinton 3. Bush). The candidate with the least number of first place votes is eliminated, and their votes are “transferred” to their 2nd choice until a candidate has a majority.

- **Approval**— Voters are allowed to vote for *all* candidates they approve. For example, Bush-Yes Perot-No Clinton-Yes. The candidate with the highest number of “yes” votes wins. For a more complete explanation, see <http://bcn.boulder.co.us/government/approvalvote/center.html>
- **Condorcet’s Method** — Like preference voting and majority preference voting, the voter simply ranks candidates in an order of preference (ex. 1. Perot 2. Clinton 3. Bush). Unlike majority preference voting though, several two-way races are simulated using the ballots, determining who would win a Perot/Clinton race, who would win a Perot/Bush race, and who would win a Bush/Clinton race. The one who wins all of the pairwise elections wins. For a more complete explanation, see <http://www.eskimo.com/~robla/politics/condorcet.html>

All of these methods give voters a greater voice in how their vote is used, and alleviate the “lesser-of-two-evils” problem for voters. Our current winner-take-all system promotes candidates who blame all of our problems on those who would never vote for them, and punishes candidates who come up with pragmatic, middle-ground solutions.

Could PR Help Break The Political Impasse In The U.S. Over Important Issues Like Health Care?

Yes, it could. PR allows small parties to be a credible alternative to voters, giving them a national audience for their views to advance new ideas. PR had no ideological bias, but simply facilitates a fuller and more informed discussion of policy options; this more grounded discussion in turn provides greater opportunities to move to majority consensus on difficult issues.

An example of this is the German Greens. Without ever winning a single district election or receiving more than 10% of the national vote, the German Greens were able to see several of their environmental positions

become part of a national consensus. PR allows majorities to make policy while also bringing minority perspectives to the table for consideration.

But I Like Having A Representative From My Own District. Won't I Lose Out Without It?

A representative from your own district is nice, but with “winner-take-all” there’s a good chance you didn’t vote for that representative. In the 1994 Congressional elections, only 21% of eligible voters helped elect someone. Under PR, you will have, not one, but several representatives from a larger district. And there is a much greater likelihood that at least one of those reps will be someone you voted for. In South Africa’s 1994 PR elections, 86% of eligible voters helped elect someone.

Also, the mixed-member form of PR used by Germany can give voters the benefits of both: a representative from your district, as well as a legislature that proportionally reflects the electorate.

PR doesn’t base representation so much on geography but on political viewpoint. When our republic was young and dotted with small communities barely connected by slow communication and primitive transportation, the interests of citizens were similar to those of their neighbors. But our society is more mobile now, more multicultural and diverse. People living right next door to one another can have completely opposite viewpoints, yet with our single seat “winner-take-all” districts, only one of these voters will receive representation—the one that voted for the winner. Simple geographical representation can no longer ensure fair political representation for all voters and all political perspectives.

What’s Wrong With Only Two Parties?

Two parties limit the voters’ choices. U.S. citizens would never accept an economic system that allowed us to buy cars from only two companies, or to choose from only two airlines. Why then, should we have to settle for just two options in politics? It’s no wonder such a large portion of the U.S. electorate decides not to participate. They’re not buying what the two parties are selling!

The logjam and partisan bickering of U.S. politics is partly the result of the winner-take-all two-party system, where each party says everything they do is right and the other party does is wrong. The optimum campaign strategy is to sling mud at your opponent, driving their voters to your party. New ideas and solutions have a hard time percolating to the surface in such an environment. But this dynamic is not so advantageous when there are three or more parties.

Winner-take-all elections are also more susceptible to the corruption of big money. A majority of votes is a lot of votes to win, and a candidate has to plaster her or his name and face over every billboard, bumper sticker and TV ad. Since so much is at stake—you either win the seat or you lose—there is an urgency to spend lavishly.

But with PR you don't have to come in first to win seats. Whatever proportion of votes your party wins, you get that many seats in the legislature. PR actually reduces the number of votes it takes for a party or candidate to win a seat. Candidates tend to run cleaner, more positive, issue-oriented campaigns, targeted at a particular constituency. Such campaigns require less money to win seats.

Could PR Help In Voting Rights Cases?

Absolutely. With PR, you actually need less votes to gain a seat than in the winner-take-all system, and you can gather these votes from a larger area. This makes it easier for racial or political minority perspectives to win seats, **without** having to gerrymander districts.

In June 1995, the U.S. Supreme Court ruled in *Miller v. Johnson* that racially gerrymandered districts are unconstitutional. Voting rights experts like Lani Guinier, Ed Still, Gerald Hebert, Pamela Karlan and Richard Engstrom have proposed various forms of PR as a race-neutral method to give racial as well as political minorities and women a fair chance to elect representatives in competitive elections.

Does PR Affect The Election of Women?

Yes, very much so. Research has shown that systems of proportional

representation result in greater numbers of elected women, and that greater numbers of women are elected in multi-seat rather than single-seat districts. Women currently make up only 11% of the U.S. House of Representatives and 8% of the U.S. Senate. In state and local legislatures, women average only one out of five legislators. According to United Nations reports, the United States ranks 24th of 54 western democracies in terms of women's representation in national legislatures. In fact, scholars have demonstrated that the underrepresentation of blacks is largely an underrepresentation of black women. African American women have only about one fourth the representation of black men.

So How Do We Change From "Winner-Take-All" To PR?

In many states it is possible to convert to PR simply by changing applicable laws. Amendments to the U.S. Constitution are not required. The laws can be changed by a simple vote of the legislatures, or in many cases via a voter initiative. PR can be adapted to local, state and national levels, bringing the democratic promise of "one person, one vote" closer to fulfillment.

If the political will could be mobilized, it is possible to convert immediately to a system of proportional representation for electing representatives to city councils, state legislatures, and even the U.S. House of Representatives. U.S. Senators could be elected by Majority Preference Voting (MPV), giving voters more choice. As a bonus, PR would spare states the torment of legislative redistricting, an arduous, bitter and partisan gerrymandering affair.

Where Can I Learn More About Proportional Representation?

Here's a reading list we've assembled about PR:

- *Real Choices, New Voices*. Douglas Amy; Columbia University Press, 1993
- *Tyranny of the Majority*. Lani Guinier, 1994

- *Electoral Systems and Party Systems* Professor Arend Lijphart; Oxford University Press, 1994
- *United States Electoral Systems: Their Impact on Women and Minorities*. editors Dr. Wilma Rule and Dr. Joseph Zimmerman; Praeger Publishers, 1992
- *Voting and Democracy Report, 1995*. CVD's survey of electoral reforms.
- *Dubious Democracy: 1994 U.S. House Elections*. CVD's groundbreaking statistical analysis showing reasons for low voter turnout
- "A Radical Plan to Change American Politics" by Michael Lind, *Atlantic Monthly*, August 1992
- *Choosing an Electoral System*, edited by Arend Lijphart and Bernard Grofman, Praeger Press, 1984.
- *The Power to Elect*, Enid Lakeman, Heinemann Press, 1982.
- *Seats and Votes*, Rein Taagepera and Matthew Shugart; Yale Univ Press, 1989.
- *PR: The Key to Democracy*, George Hallett; National Municipal League, 1940.
- *Considerations on Representative Government*, John Stuart Mill; Park, Son and Bourn, 1861.
- *Women, Elections and Representation*, by Robert Darcy, Susan Welch and Janet Clark; Longman Press, 1987.

A full bibliography is available from The Center for Voting and Democracy for \$1.

How Can I Get Involved In the Proportional Representation Movement?

You can get involved by becoming a member of the Center for Voting and Democracy.

The Center for Voting and Democracy is a non-profit organization dedicated to educating U.S. citizens about the impact of voting systems and the benefits of PR. Contact the national office or our west coast office for more information about PR and about how to get involved in the national and local efforts to bring PR to the United States.

For only \$15, you can receive our quarterly newsletter, as well as regular

updates about the rapidly growing PR movement in the United States.

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Item 2

VOTER REFORM

**Making Every Vote Really Count
“Winner take all” isn’t fair -**

Los Angeles Times, 17 July 1994, M5

Making Every Vote Really Count

“Winner take all” isn’t fair—a proportional system would offer minority voices a chance for representation

by Andrew Reding

Among the most pressing problems confronting Deval Patrick as the new assistant attorney general for civil rights is how to respond to the growing number of federal court decisions casting doubt on the constitutionality of racially delineated legislative districts.

The challenges began a year ago, when, in a case involving congressional redistricting in North Carolina, several Supreme Court justices signalled their discomfort with racially determined districts, noting an unfortunate irony in using a form of electoral “apartheid” to solve problems of inadequate representation. In December, a three-judge court of Appeals ruled unanimously that Louisiana’s 4th congressional district, which snakes along the state’s borders for 600 miles, is an unconstitutional racial gerrymander. On instructions from the Supreme Court, another three-judge federal panel is presently reviewing the constitutionality of two “majority-minority” districts in North Carolina. One of these, the 12th congressional district, which meanders along three interstate highways to connect majority black communities, was the one described by Justice Sandra Day O’Connor in her majority opinion as bearing “an uncomfortable resemblance to political apartheid.”

The easiest response to these challenges would be a reflexive—and aggressive—defense of the present system. Liberal editorialists and civil rights organizations are already trying to characterize the choice as limited

to upholding the status quo or returning to the bad old days of minority exclusion. There are, however, other options.

Rather than try to defend a flawed system, the Justice Department should seize the opportunity to pursue more effective strategies for achieving equitable representation. For not only do black and Latino districts tend to reinforce and legitimate patterns of racial segregation; they also reproduce the injustice they seek to remedy, by denying representation to other minorities within the so-called minority district.

The essential problem is that the very nature of our "winner take all" electoral system discriminates against minorities, and no satisfactory way has been found to fix it. As illustrated by a Florida redistricting case, in which blacks and Latinos have been battling over mutually exclusive plans to secure an additional seat in the state senate, there is no way to draw district boundaries that does not shift the burden of uneven representation from one group of citizens to another. And gerrymandering, as in Louisiana's 4th congressional district and North Carolina's 12th congressional district, invites ridicule, if not hostility.

Simple justice demands a more equitable system, one designed to assure equal representation to every citizen, regardless of race, creed, political orientation, or ethnicity.

With that in mind, the vast majority of the world's democracies have adopted forms of proportional representation. Under proportional representation, single-member districts are replaced by multiple-member districts, and seats are assigned in proportion to the percentage of votes received. Thus in a five-member district, a ticket that wins 20% of the vote is entitled to one seat, one that wins 40% gets two seats, and so on. With some variations, this is how legislators are elected in Germany, Sweden, Spain, Costa Rica, Ireland, and dozens of other countries, without need of gerrymandering to ensure pluralism.

Conventional wisdom holds that proportional representation could not be introduced in the United States because it requires voting for political parties instead of individuals. Though "party list" systems are indeed common in Europe, they represent but one form of proportional representation. An alternative form known as the single transferable vote

(STV) is, like our existing political system, centered not on parties but on candidates.

Under STV, which is now used in Ireland, Malta, and Australia, voters rank candidates in order of preference. In our hypothetical five-member district, the candidates who obtain at least 20% of the first-choice votes are elected. The remaining seats are filled by consulting successive choices, subject to the same 20% threshold. This ensures proportional representation of significant minorities while preserving majority rule (since a ticket that receives 60% of the vote will win three of the five seats). It also avoids racial and ethnic discrimination.

Best of all, STV transfers more power to the citizen. There is no presumption that members of any given ethnic group will always want to vote on the basis of their ethnicity. Minorities of all types—political as well as ethnic and religious—are guaranteed the voice they are entitled to in the shaping of laws and policies that affect all alike.

STV would also free voters from the strictures of the two-party system. Since candidates would not need to win pluralities in order to be elected, third-party and independent candidacies would become viable. With 20% of the vote, a third party could elect something like one-fifth the House of Representatives.

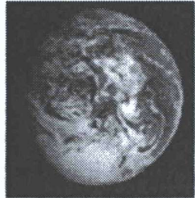
Furthermore, since all votes under STV count toward the outcome, none are wasted. There is little pressure to vote for “lessers of evils,” and less incentive for the disaffected to not vote at all.

The fact that every vote affects the outcome equally under proportional representation has the additional advantage of eliminating the swing factor—that 5% or so of the vote that often tips a close election one way or the other. The heavy spending and negative advertising that have come to characterize U.S. campaigns are targeted at the small swing vote. By abolishing winner-take-all, proportional representation removes the 95% gain that can result from a 5% swing, greatly diluting the impact of money.

Significantly, there are no constitutional obstacles to electing the House of Representatives and most state legislatures by proportional representation. The Constitution only mandates that states maintain separate

representation in Congress, in keeping with the postulates of federalism. Thus California, with 52 representatives, could divide itself into eight five-member and two six-member districts. North Carolina, with 12 seats, could set up two six-member districts. Louisiana, with seven seats, could form a single seven-member district. Should blacks, Latinos or Asians in any of these districts wish to elect members of their own ethnic groups, they would then need only 15% to 20% of the vote in each district to elect one representative (30% to 40% to elect two representatives). Hence the objective of achieving a Congress and state legislatures that look like America could be achieved without separating the country into racial enclaves.

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